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DEPARTMENT OF JUSTICE

Notice of Public Comment Period on

Proposed Uniform Language for Testimony and Reports

Docket No. OLP 159

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This notice announces the opening of the public comment period on the Proposed Uniform Language for Testimony and Reports (Proposed Uniform Language) documents for the forensic disciplines of anthropology, explosive chemistry, explosive devices, geology, hair, handwriting analysis, metallurgy, mitochondrial DNA and Y chromosome typing, and paints and polymers.

DATES: Written public comment regarding the Proposed Uniform Language should be submitted through www.regulations.gov before August 26, 2016.

FOR FURTHER INFORMATION CONTACT: The Office of Legal Policy, 950 Pennsylvania Avenue, NW, Washington, DC 20530, by phone at 202-514-4601 or via email at ULTR.OLP@usdoj.gov.

SUPPLEMENTARY INFORMATION:

As part of the Department's continued efforts to advance the practice of forensic science by ensuring Department forensic examiners are testifying and reporting consistent with applicable scientific standards and across Department components including the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Drug Enforcement Administration (DEA), and the Federal Bureau of Investigation (FBI), the Department is developing Proposed

Uniform Language that would apply to all Department forensic laboratory personnel. The Proposed Uniform Language documents are based on the Federal Bureau of Investigation's (FBI) Approved Scientific Standards for Testimony and Reports (ASSTRs) but differ substantially. As a primary matter, the ASSTRs are currently in effect for FBI personnel, while the Proposed Uniform Language documents are merely proposed and have not been adopted. After adjudication of public comment and the incorporation of appropriate edits, it is anticipated that each Proposed Uniform Language document will be forwarded to the Deputy Attorney General. If one or more are adopted by the Deputy Attorney General, they would become effective for Department forensic laboratory personnel.

Process: On June 10, 2016, the Department posted Proposed Uniform Language documents for fiber, footwear and tire treads, general chemistry, glass, latent prints, serology, and toxicology. At that time, the Department stated its intention to publish all remaining Proposed Uniform Language documents in July 2016. Documents for two disciplines (nuclear DNA and firearms and toolmarks) are not ready to be posted at this time but rather than delaying the process, those documents will be posted for public comment separately.

Ongoing Review of Previously Received Comments: The Department received 127 comments on the Proposed Uniform Language documents for fiber, footwear and tire treads, general chemistry, glass, latent prints, serology, and toxicology. Comment was open through July 8, 2016. Due to the substantive nature of the comments and the recency of the closing of the comment period, the Department's adjudication process is ongoing. While several comments suggested changes to the format and content of the Proposed Uniform Language documents, the Department has not decided whether, or to what extent, to make changes in light of those comments, nor have changes been incorporated into Proposed Uniform Language documents for

anthropology, explosive chemistry, explosive devices, geology, hair, handwriting, metallurgy, mitochondrial DNA and Y chromosome typing, and paints and polymers. Previously received comments are being reviewed and, if adopted, will be reflected in all relevant Uniform Language documents. As a result, commenters do not need to submit identical or substantially identical comments on this group of Proposed Uniform Language documents; commenters may wish to make their comments more discipline-specific for this group.

Proposed Uniform Language: The Department is posting the Proposed Uniform Language document for each of the following forensic science disciplines on www.regulations.gov and seeking public comment: anthropology, explosive chemistry, explosive devices, geology, hair, handwriting, metallurgy, mitochondrial DNA and Y chromosome typing, and paints and polymers. Each Proposed Uniform Language document contains two primary sections: statements approved for use in examination testimony and/or laboratory reports and statements not approved for use in examination testimony and/or laboratory reports. We ask that you review and provide comment on each Proposed Uniform Language document separately.

Review Sheet: In order to assist commenters in evaluating each Proposed Uniform Language document, the Department has provided a review sheet that identifies certain criteria. Commenters may find it helpful to use a format similar to that provided by the review sheet to frame their responses. Use of the review sheet is optional but would be helpful to provide consistency in commentary.

Supporting Documentation: Each Proposed Uniform Language document is accompanied by supporting documentation (posted separately) that provides additional scientific background and policy considerations to support the statements approved for use and statements

not approved in examination testimony and/or laboratory reports. The Department is not seeking public comment on the supporting documentation, however, commenters are welcome to provide thoughts and suggestions on these documents but notes that only each Proposed Uniform Language document will be forwarded to the Deputy Attorney General for review and potential adoption by Department personnel.

Posting of Public Comments: To ensure proper handling of comments, please reference “**Docket No. OLP 159**” on all electronic and written correspondence. The Department encourages all comments on this framework be submitted electronically through www.regulations.gov. Paper comments that duplicate the electronic submission are not necessary as all comments submitted to www.regulations.gov will be posted for public review and are part of the official docket record.

In accordance with the Federal Records Act, please note that all comments received are considered part of the public record, and shall be made available for public inspection online at www.regulations.gov. The comments to be posted may include personally identifiable information (such as your name, address, etc.) and confidential business information voluntarily submitted by the commenter.

The Department will post all comments received on www.regulations.gov without making any changes to the comments or redacting any information, including any personally identifiable information provided. It is the responsibility of the commenter to safeguard personally identifiable information. You are not required to submit personally identifying information in order to comment on the Proposed Uniform Language and the Department recommends that commenters not include personally identifiable information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses that they do not

want made public in their comments as such submitted information will be available to the public via www.regulations.gov. Comments submitted through www.regulations.gov will not include the email address of the commenter unless the commenter chooses to include that information as part of his or her comment.

Dated: July 20, 2016.

Kira Antell
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Office of Legal Policy

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